



Court Services and Offender Supervision Agency
for the District of Columbia

POLICY STATEMENT

Policy Statement 4007

Policy Area: Supervision

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RELEASE OF DEFENDANT/OFFENDER DRUG TEST INFORMATION

I. COVERAGE

This Policy Statement establishes procedures for the Court Services and Offender Supervision Agency (CSOSA) and D.C. Pretrial Services Agency (PSA) staff involved in the drug testing and supervision of offenders and defendants, respectively. CSOSA and PSA staff with specific responsibilities under these procedures include the Forensic Toxicology Drug Testing Laboratory (Lab), Community Supervision Officers (CSOs), Pretrial Services Officers (PSOs), Treatment Specialists (TSPs) on the Central Intervention Team, Drug Testing Technicians (Technicians) in the CSOSA Illegal Substance Collection Units and PSA Drug Testing and Compliance Unit (Collection Units), their supervisors, and the Freedom of Information Act (FOIA) Office.

II. BACKGROUND

Information concerning an offender/defendant's drug test results and drug test levels may not be released without the written consent of the affected offender/defendant or in accordance with other authorization under the Privacy Act. CSOs/PSOs have access to the Supervision and Management Automated Record Tracking (SMART) and the Pretrial Services Real-Time Information System Manager (PRISM), but some information (for example, Specimen History Reports or Chain of Custody Reports) is not available to them. The Lab is authorized to provide Specimen History Reports and Chain of Custody Reports, as well as other related information; however, due to program security issues, offenders/defendants are prohibited from accessing the Lab to receive these reports. In other instances, the FOIA Office within the Office of the General Counsel has the responsibility to determine whether a disclosure may be made. This Policy Statement prescribes procedures on how drug test results and other drug test-related information are released. The General Procedures in Appendix A are intended to safeguard privacy rights while affording efficient access for authorized releases by CSOSA only. PSA's procedures are found in the joint CSOSA/PSA policy on Sensitive Offender/Defendant Information. Pertinent definitions for terms used in this Policy Statement are contained in Appendix B attached to this Policy Statement.

Procedures regarding the release of other types of sensitive offender/defendant information are contained in the CSOSA/PSA policy on Sensitive Offender/Defendant Information.

III. POLICY

CSOs/PSOs are responsible for releasing:

- drug test results, drug levels interpretations, and Gas Chromatography/Mass Spectrometry (GCMS) confirmations to offenders/defendants and, with appropriate prior written authorization, to counsel for an offender/defendant*;
- drug test information in accordance with a routine use by CSOs/PSOs as defined in the Privacy Act.

The Lab is responsible for releasing:

- specimen history reports (including concentration levels) and chain of custody reports to counsel for an offender/defendant;
- drug test information to releasing authorities and prosecutors in accordance with a routine use by CSOs/PSOs as defined in the Privacy Act.

FOIA is responsible for releasing (or authorizing the release of):

- drug test result information to offenders/defendants with or without counsel;
- drug test information in accordance with a routine use or as otherwise authorized under the Privacy Act.

See Appendix A to this Policy Statement for the General Procedures for releasing offender drug test information. For procedures regarding the release of a defendant's drug test results performed as a condition of PSA supervision, see the CSOSA/PSA policy on Sensitive Offender/Defendant Information.

IV. AUTHORITIES, SUPERSEDESURES, REFERENCES, AND ATTACHMENTS

A. Authorities

Statutory Authority: 5 U.S.C. § 552a; 42 U.S.C. § 290 dd-3 and ee-3

Regulatory Authority: 28 C.F.R. Part 802; 42 C.F.R. Part 2

* Note that counsel for defendants do not need written consent to obtain drug test results concerning their clients from a PSO, but counsel for offenders must obtain written consent to obtain their clients' drug test results from a CSO, as a result of a difference in the routine uses published in CSOSA's and PSA's respective system notices.

B. Procedural References

CSOSA/PSA Sensitive Offender/Defendant Information

CSOSA's and PSA's waiver/consent forms: Privacy Act Waiver

C. Supersedures

None

D. Attachments

Appendix A. General Procedures

Appendix B. Definitions

APPENDIX A
GENERAL PROCEDURES

A. Instructions for Processing Drug Test Information Requests from Offenders and Other Members of the Public

1. CSOs and Technicians shall inform offenders of the appropriate channels for making requests for drug test information. A pamphlet outlining the various channels shall be sufficient for this purpose.
2. The Lab and Collection Units shall have a sign posted within the facility advising the public of the appropriate channels for making requests for drug test information.

B. Release of Drug Test Results and Drug Levels Interpretation

The following procedures apply to the release of an offender's drug test results and drug levels interpretations from testing performed as a condition of CSOSA supervision.

1. The CSO shall be authorized to release to an offender his/her own drug test results and levels interpretations, provided that the offender submits a signed written request to the supervising CSO. The CSO shall provide the offender with the drug test results within one (1) business day of the date of receipt of the request. The CSO shall retain the original written request in the offender's file and provide a copy to the offender. The CSO shall also note in the offender's running record that the request was made and describe the information that was provided.
2. The CSO shall be authorized to release an offender's drug test results and levels interpretations to the offender's attorney, provided that the attorney has obtained a signed written waiver/consent form from the offender. The CSO shall forward the drug test results within one (1) business day of receipt of the request.
3. The CSO shall be authorized to release an offender's drug test results and levels interpretation to the United States Parole Commission (USPC), the sentencing judge or the Assistant United States Attorney (USAO), provided the drug tests were ordered, by phone (pending verification of the requestor) or in writing, in the case under review or prosecution by that entity. These releases are in accordance with routine uses under the Privacy Act. The CSO shall provide requested information to these entities no later than the next business day after the information is requested, if available.
4. The CSO/Treatment Specialist shall be authorized to release an offender's drug test results and levels interpretations to a particular CSOSA treatment vendor, provided that a signed waiver/consent form from the offender for that release has been obtained.

5. Requests from any source not mentioned in these procedures or for any other purpose shall be submitted to CSOSA's Freedom of Information Act (FOIA) Office.

C. Release of Specimen History Reports and Chain of Custody Reports

The following procedures apply to the release of the offender's Specimen History Reports (including concentration levels) and Chain of Custody Reports from tests performed as a condition of the offender's CSOSA supervision.

1. Requests from an offender's counsel for Specimen History Reports and Chain of Custody Reports must be submitted to the Lab. Only the Lab shall be authorized to release to an offender's attorney information regarding the offender's drug test levels, as defined in these procedures. The offender's attorney shall be required to present a written waiver/consent form, signed by the offender, to the Lab, specifying the information being requested, the name of the intended recipient and the purpose of the request. Within one business day, the Lab shall provide the attorney a copy of the requested information upon presentation of the offender's written waiver/consent form.
2. If the offender is not represented by counsel, s/he should contact the FOIA Office in order to obtain Specimen History Reports and Chain of Custody Reports.
3. The Lab shall be authorized to release Specimen History Reports and Chain of Custody Reports to the USPC, the judge (or designee) presiding over the offender's related case and the USAO prosecuting the related probation case, without offender's written consent, provided that they do not contain any treatment information. If they contain treatment information, including a reference to referral for treatment, an appropriate consent form must be signed by the offender and placed in that person's file. A requested Specimen History Report and/or Chain of Custody Report may be picked up at the Lab upon presentation of the required written consent form signed by the offender.
4. Requests for Specimen History Reports or Chain of Custody Reports from any source not mentioned in these procedures shall be submitted to CSOSA's FOIA Office.

APPENDIX B DEFINITIONS

1. **Drug Test Results:** the conclusion of a drug test, either positive or negative.
2. **Concentration Levels:** the numerical amount of a drug in a biological specimen, namely urine, as contained in a specimen history report.
3. **Drug Levels Interpretation:** a determination of new or residual drug use.
4. **Gas Chromatography/Mass Spectrometry (GCMS) confirmation:** the conclusion of a GCMS analysis; either confirmed or not confirmed.
5. **New Use:** the concentration level of drug in the urine from new or additional use from a particular timeframe.
6. **Residual Use:** a determination that the concentration level of drug in the urine remains from previous use.
7. **Routine Use:** disclosure of a record to specified entities for a purpose compatible with the purpose for which the record was collected, as established in CSOSA/PSA's Privacy Act systems notices. See 5 U.S.C. § 552a(a)(7), 28 C.F.R. Part 802, and 67 F.R. 11816.
8. **Written Waiver/Consent Forms:** the CSOSA release forms utilized to provide written authorization for disclosure of defendant/offender information, otherwise protected by the Privacy Act, to a third party. The forms must be completed, signed and dated by the offender and signed and dated by a witness in order to be valid. The forms are available on CSOSA's Intranet website.
9. **Specimen History Report:** a report of laboratory data including drug test concentration levels.
10. **Chain of Custody Report:** a report of the continuity of possession of a drug test specimen. Each person who handled and/or tested the specimen is accounted for, and the date and time is indicated. Also included in the Report are the results and any available interpretation.